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Migration and Health in Asia

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Keiko Yamanaka

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8 Migration, differential access to health services and civil society's responses in Japan

Keiko Yamanaka

Introduction

In November 1991, Jeevan Shrestha, a 22-year-old migrant worker from Nepal, fell sick in Japan.¹ Four months later in a clinic in the city of Hamamatsu, Shizuoka Prefecture, he was diagnosed as suffering from a fatal deficiency in the arterial valves of his heart. To save his life, Dr Hiroshi Taniguchi, who examined the patient, decided that he needed to undergo open-heart surgery to replace his failing arterial valves with artificial ones. The surgeon estimated the cost of surgery at more than five million yen (US\$45,000), plus more than two million yen (US\$18,000) for hospitalisation, medication and treatment.² Shrestha was an unauthorised (illegal) visa-overstayer who was ineligible for public health insurance, as a result of which public funds would not be available to him. This posed a serious dilemma for Dr Taniguchi and his colleagues in the general hospital where Shrestha was admitted. By then, local media had featured his story, attracting a great deal of public attention in the city and its vicinity. In response, sympathetic citizens sent donations, a total of 600,000 yen (US\$5,400), to contribute to his surgery, while a group of volunteers coordinated efforts to assist him. Doctors and citizens alike wished to save Jeevan's life but faced a dilemma: who was going to pay his huge medical costs?

This example epitomises growing gaps between Japan's policy of neglect towards the social welfare of immigrant workers, on the one hand, and the many incidents of sickness and injuries that befall them, on the other. By law, Japan prohibits unskilled foreigners from gaining employment. The unprecedented economic boom of the late 1980s, however, demanded more labour than was legally available, to which some employers responded by ignoring the law. As a result, a large influx of guest workers was drawn to the country. By the mid-1990s, Japan was home to more than half a million guest workers and their families from Asia and Latin America. The rapid growth of the immigrant population was a result of a number of 'back doors' that had opened in response to the contradictory policy through which unskilled migrant workers were able to enter as legal tourists, students, entertainers, company trainees, long-term residents, and relatives of

Japanese nationals (Yamanaka 1993; Cornelius 1994; Tsuda and Cornelius 2004).

As the Shrestha case highlights, from the beginning of this influx, migrants' access to health services has become a focus of intense policy concerns and contentious public debate (Miyajima and Higuchi 1996). Most of these newcomers, both authorised and unauthorised, are excluded from enrolling in public health insurance plans. However, a high incidence of work-related injuries and personal illness among immigrant workers, especially those who are unauthorised, has drawn public attention to the inequality and injustice experienced by this most vulnerable of categories of workers in Japan.

Japanese citizens' responses to mounting immigrant health problems have been spontaneous and in sharp contrast to the continuing neglect by government and by industries that depend heavily on immigrant labour. Since the early 1990s, a few committed citizens – often members of such groups as labour unions, professional association and religious organisations – have assisted immigrants in meeting their health and medical needs. They have also advocated for the rights of immigrants as residents, workers and human beings, in public debates, publications and campaigns, and in lobbying elected officials and government offices. In many industrial cities where immigrants have settled, frequently with their families, citizen activists have recognised that their lack of access to health care is an urgent and alarming community problem to which activists have responded with determination (Hamamatsu NPO Network Centre 2001). This clearly suggests that recent global immigration has energised Japan's civil society, and motivated concerned citizens to fill the gap between outdated governmental policies and the social problems that they cause for immigrant workers.

In this chapter, I discuss how grass-roots forces have responded to governmental neglect in health care for increasing numbers of uninsured foreign residents in Hamamatsu. By way of introduction, I first briefly describe Japan's experience during the post-Second World War era with immigrant workers, and how the government handled the human rights of these workers and their descendants. The description begins with regional comparisons between Europe and Asia as they reveal different ways in which the rights of immigrant workers are conceived and administered in the two regions.

Citizenship rights of migrants in Europe and Asia

The influx of immigrants, refugees and asylum seekers into Western Europe since the 1950s has resulted in significant expansion of membership rights for foreigners there (Soysal 1994). The ways in which these foreigners have been incorporated into the host countries' legal and institutional structures vary depending on their national and political histories. However, over the years many European nation-states have granted substantial social, economic

and political rights to authorised immigrants. As a result, by the 1990s citizenship ceased to be a determining factor in their eligibility for most public services, economic activities and political participation at local levels.³ In 'post-national' Europe, therefore, immigrants' rights are increasingly determined by residence, not by citizenship.⁴ Throughout the region, among the public services available to foreign residents, access to inexpensive health and medical care is fundamental to the levels of public health and social welfare in the nation. Inclusive legal stipulation notwithstanding, however, institutional and cultural discrimination embedded in the bureaucracy, labour markets and medical organisations often prevents ethnic minority populations from full access to their statutory benefits. To alleviate this problem, immigrant associations and citizens' organisations provide immigrants with formal and informal services and advocate their rights as local citizens (see e.g. Piper 1998).

Since the end of the Second World War, the United Nations and other international and regional organisations have endorsed treaties and conventions that guarantee basic rights and welfare to refugees and immigrants and their families in their host countries (Soysal 1994; Sassen 1998). These treaties and conventions commonly define human rights as the universal and inalienable rights of individual persons, regardless of personal attributes such as sex, nationality, ethnicity and class. In recent decades, under the leadership of the European Union and as a consequence of globalised migration, Europe has been increasingly integrated – deterritorialised – as a result of which individual rights have become increasingly important. Therefore, in 'the postnational model, universal personhood replaces nationhood; and universal human rights replace national rights. . . . Hence, the individual transcends the citizen' (Soysal 1994: 142). For many civil activists and organisations struggling to enhance immigrant rights, these international laws have provided much needed moral principles and legal tools with which to combat legal, institutional and cultural barriers in the face of governmental neglect and public indifference (Gurowitz 1999, 2001).

Outside Europe and a few other Western nation-states, however, the concept of universal personhood has attracted little attention. In Asia, Africa and Latin America, many governments are building the nation-state and constructing nationhood. In many East and Southeast Asian countries, legacies of colonialism, civil war and poverty have long divided the population along ethnic and regional lines (see e.g. Maidment *et al.* 1998). As a result, many governments continue to direct most of their efforts to solidifying the foundation of the nation-state (Castles and Davidson 2000). Although migrant workers provide a pool of inexpensive and flexible labour, indispensable to economic development, these governments tend to maintain rigid control over their borders and to draw sharp distinctions between citizens and non-citizens (see e.g. Wong 1997; Yamanaka 1999). Some Asian governments emphasise 'Asian values' to uphold collective values, dismissing individual rights as 'Western values' (Bauer and Bell 1999). Some are

yet to ratify international laws that require signatories to raise labour standards and treat non-citizens as equal to citizens.

In Asia, immigration laws typically permit unskilled migrants to work for a short period of time in the host country. The laws usually stipulate rules regarding their admission and exit, but give little attention to immigrant rights during their residence (Battistella 2002). The laws also prohibit family members from joining their migrant relatives at their destination. Such official neglect of human rights for migrant workers has created serious problems in their daily lives, since they are regularly exposed to labour accident and injury, abuse and violence, illness and depression, and epidemics such as AIDS/HIV. When illness or injury befalls them, migrants often receive neither medical treatment nor payment of wages earned. They have little recourse but to accept deportation.

Despite frequent violations of such human rights at the hands of bureaucrats and employers, citizens of most Asian labour importing countries remain unaware of these problems, and therefore pay little attention to the plight of foreign labourers. The mass media tend to reinforce negative public images of them by repeatedly disseminating inaccurate information (see e.g. Chin 2003). As a result, throughout Asia, non-government organisations and civil groups are the only agents dedicated to the protection of migrants' rights (Yamanaka and Piper 2003). In response to the critical importance of personal and public well-being, Asian NGOs have commonly worked to increase public awareness of health issues, while providing health services and health training for migrant men and women (see e.g. Van Beelen *et al.* 2001, Verghis and Fernandez 2001).

Japan and exclusive immigration policy

Japan occupies a unique position in its immigration policy and citizenship rights for migrant workers, intermediate between post-national Europe and post-colonial Asia. On the one hand, it stands out as having been the only Asian coloniser in the pre-Second World War period and 'the only long-standing Asian democracy' in the post-Second World War period (Castles and Davidson 2000: 196). Having achieved rapid economic reconstruction and development, post-war Japan resembles Western Europe in its high level of technological sophistication and high living standards, its large middle-class population, and its solid foundation as a nation-state. On the other hand, unlike its European counterparts, Japan has adopted an official policy of admitting only skilled foreigners, while unofficially admitting more than half a million unskilled, *de facto* guest workers (as discussed below). Because they lack citizenship, most of these newcomers are denied rights to family reunification and access to public services. In its exclusive policy on immigration and citizenship, Japan resembles its Asian post-colonial neighbours. The contradiction between Japan's advanced capitalism and its obsolete immigration policies requires ethno-historical explanation

dating back to its nation-state building era of more than one hundred years ago (Yamanaka 2004a, b).

In addition to these newcomers, Japan, like all nation-states, includes within its population a number of long-term and indigenous ethnic minorities with distinct histories and cultures. This is a result of nation-building efforts since the 1860s that forced ethnic minorities – Koreans, Chinese, Ainu, Okinawans, *Burakumin* and others – to assimilate into the national culture and polity dominated by the majority Japanese population (Lie 2001). Hence, a brief account of foreigners' rights to public services, especially their eligibility for national health insurance and an old-age pension, provides a clue to official ideologies and discourses of exclusion based on nationality throughout the post-Second World War era. It also reveals the unprecedented impact that international laws, ratified by the Japanese government, have had in leading the government to amend discrimination, laws and bureaucratic procedures. Furthermore, it shows the crucial role played by such non-government actors as labour unions, professional and religious organisations, and immigrants' associations in urging the government to eradicate discrimination based on nationality.

Citizenship rights of newcomers

In May 1947, Japan's New Constitution took effect. The American Occupation Forces drafted its original text in English, using the words 'all of the people' as the subject of the sentences concerning rights and privileges. From its inception, these words generated confusion and concern regarding the rights of non-national residents in Japan, most of whom were former colonial citizens from Korea (estimated at approximately half a million). This is because the Japanese text of the Constitution has translated 'all of the people' as *subete kokumin* (all nationals), thereby neglecting the presence of resident non-Japanese, while manifesting a strong exclusive nation-state ideology (Takafuji 1991: 8). According to Article 14 of the Constitution, foreign nationals are guaranteed equality: 'All of the people [in Japanese, 'all nationals'] are equal under the law and there shall be no discrimination in political, economic or social relations because of race, creed, sex, social status or family origin.' However, throughout the post-war era, there has been no legislation in Japan that specifically bans discrimination based on race, nationality or ethnicity.

The Constitution's Chapter III, 'Rights and Duties of the People', defines a wide range of citizenship rights for Japanese nationals. Specifically, Article 25 on the right of survival (*seizonken*) states: 'All people [in Japanese, 'all nationals'] shall have the right to maintain the minimum standards of wholesome and cultured living. In all spheres of life, the State shall use its endeavours for the promotion and extension of social welfare and security, and of public health.' Following this stipulation, in 1958 the National Health Insurance Law was established to launch the National

Health Insurance (*Kokumin Kenko Hoken*) to cover those nationals who were not already covered by employee health insurance; that is, self-employed, farmers, retirees and their dependants. Similarly, in 1959 the National Pension Law was instituted to mandate that all adult nationals participate in the National Pension Programme (*Kokumin Nenkin*). For those who are employed, welfare pension insurance (*Kosei Nenkin*) has been in place since 1941 to provide health insurance and an old-age pension programme.

In these earlier periods of Japan's efforts to provide social welfare and security to all nationals, a serious debate arose surrounding the question of whether or not these public programmes should be extended to all non-Japanese. Most legal scholars of the time considered that the right of survival could not be denied to foreigners, although, as noted above, in Article 25 'all people' refers to Japanese nationals (Takafuji 1991: 8). In 1950, the Supreme Court recognised this right even for illegal entrants to the country. However, three years later, under the deepening tensions of the Cold War, the same Court ruled that the constitutional guarantee for right of survival could be applied to foreigners 'except those rights that were interpreted to be guaranteed only for Japanese nationals because of their nature' (Takafuji 1991: 8; emphasis added). According to this ruling, rights of access to public services in health, social welfare and social security were considered to be preserved only for Japanese. Consequently, after this decision, foreign nationals were categorically denied these rights despite the fact that foreigners, most of whom were former colonial citizens, were taxpayers and law-abiding residents.

The differential exclusion of foreigners from national health insurance and social security insurance continued until 1985 when Japan ratified the United Nations Convention and Protocol Relating to the Status of Refugees (Refugee Convention hereafter). By the 1970s, Japan was an economically developed country under increasing pressure from the world community to meet international standards of human rights. In 1981, the government agreed to sign the Refugee Convention in response to international pressure to join other nations in admitting Indochinese refugees in far larger numbers than Japan had reluctantly proposed to admit. The Convention required its signatories to guarantee equal treatment of foreign nationals in access to social welfare and social security services. Obligated by the Convention, the government finally revised domestic laws to include all registered foreign nationals in its National Pension Programme (1982), and to include all foreign nationals residing in the country for more than one year in the National Health Insurance Programme (1986).

In addition to the Refugee Convention, since the late 1970s the Japanese government has ratified a series of international human rights laws. These include the International Covenant on Civil and Political Rights (1979), the International Covenant on Economic, Social and Cultural Rights (1979), the Refugee Convention (1981), the Convention on the Elimination of All Forms of Discrimination Against Women (1985), the Convention on the

Rights of Children (1994), and the Convention on the Elimination of All Forms of Racial Discrimination (1995). According to Gurowitz (1999), the universal mandates of these conventions provided Japanese and Korean activists with much needed moral support in the face of widespread public indifference to their causes. They also greatly helped the activists bolster their arguments against the government which, up until then, had been extremely reluctant to extend citizenship rights to foreign nationals.

The 1982 and 1986 provisions, allowing former colonial citizens ('old-comers'; 700,000 Koreans and 200,000 Chinese) access to the National Health Insurance Programme and National Pension Programme, epitomised activists' successful application of international norms in their campaign for the human rights of immigrants (Gurowitz 1999). Moreover, after decades of intense domestic and international pressure, in 1993 the Japanese government finally eliminated the notorious practice of fingerprinting permanent residents as a requirement for official registration. Such progress suggests that international norms can have an impact on domestic policy in the context of changing social consciousness for human rights (Gurowitz 1999). In this instance, by integrating international norms with domestic causes, civil activists played a crucial role in raising public awareness and pressuring policy-makers to grant the basic rights of those individuals who had been denied rights as a result of legal, institutional and cultural barriers (see e.g. Tegtmeyer Pak 2000: 263).

Citizenship rights of newcomers

By 1990, the arrival of no less than 200,000 unskilled migrant workers redefined citizenship rights for 'newcomers' in Japan. The majority came from neighbouring Asian countries to take those jobs shunned by Japanese. Most were able to enter the country by overstaying short-term visas issued to tourists and some other categories of visitors, allowing them to remain for no more than ninety days (Morita and Sassen 1994). In response to the over-stayers in December 1989 the Ministry of Justice revised the Immigration Control and Refugee Recognition Law, while retaining its principle of limiting foreign labour to skilled occupations (Yamanaka 1993, 1996; Cornelius 1994; Weiner and Hanami 1998). The revised law, which took effect in June 1990, instituted a criminal penalty for employers found to have hired illegal foreign workers. In an effort to maintain the supply of unskilled workers while stemming the flow of unskilled 'foreigners', the same law created a long-term, unrestricted residence visa exclusively for foreign descendants of Japanese emigrants (*Nikkeijin*).

This resulted in an influx over the next five years of more than 200,000 authorised *Nikkeijin* workers and their dependants from Latin America; Brazil in particular (Yamanaka 1996, 2000a; Roth 2002; Tsuda 2003). During the same period, there were an estimated 300,000 unauthorised visa overstayers. Consequently, by 1995 Japan was hosting more than half a

million unskilled migrant workers in industrial and metropolitan cities throughout the country (Cornelius 1994; Tsuda and Cornelius 2004). Because their visas were short-term or expired, the majority of the newcomers were ineligible for most public social services, including national health insurance. Although all workers, regardless of legal status, are required by law to participate in the labour accident insurance and the unemployment insurance programmes, foreign workers rarely did so. This was despite the fact that the majority worked in small factories and on construction sites requiring long hours with few or poor safety measures. In times of recession, they were the first to be laid off.

Among the long-term resident Japanese Brazilians and their families, those who had arrived in the early 1990s were able to enrol in the national health insurance. This, however, came to an abrupt halt in 1993 when the Ministry of Health and Welfare sent an internal memorandum to all local governments, ordering them not to accept applications by foreign workers – mostly *Nikkeijin* – for national health insurance (Roth 2002: 72). Instead, the Ministry urged the governments to advise foreign workers to enrol in social security insurance (*shakai hoken*) through their employers because they were defined as employed workers. By law, employers and employees are required to enrol and contribute funds equally to Social Security Insurance (a combination of health insurance and old-age pension). This administrative advice resulted in a sudden decline in the proportion of *Nikkeijin* who had health insurance coverage because most *Nikkeijin* workers were young and healthy and did not intend to stay in Japan for longer than a few years. They did not want to pay the expensive insurance instalments that would not be reimbursed fully upon their return to their home country.⁵ Most employers of these workers were small-scale labour brokers who were also financially motivated to ignore such costly programmes. According to anthropologist Joshua Roth, who conducted research in Hamamatsu, by the mid-1990s only 20 to 30 per cent of the city's 7,000 *Nikkeijin* had enrolled in the National Health Insurance Programme (Roth 2002: 72).

Civil activism for newcomers' access to inexpensive health care: a case study

On 31 March 1992, Nepalese patient Jeevan Shrestha underwent successful heart surgery in Hamamatsu, and by late April was able to leave hospital. Under this extraordinary circumstance, the Immigration Bureau granted him a special visa to stay one more year in Japan for follow-up treatment. While receiving treatment, he lived in an apartment with the help of Japanese volunteers and his family members who were also working in Japan. A year later on 31 March 1993, he left for Nepal in good health. Upon his departure, it was estimated that the total cost of his surgery, hospitalisation and medication had amounted to 6,500,000 yen (US\$58,600). Of that cost, 1,700,000 yen (US\$15,300) was paid by donations from the Nepalese

migrant community and local Japanese sympathisers (*Chunichi Shinbun* 1993).⁶ The balance of 4,800,000 yen (US\$43,200) remained unpaid until the city government finally settled it from its undesignated budget (Taniguchi 2000). This set an unfortunate precedent for thousands of uninsured foreigners in the city, since most hospitals began to avoid them, even when they were in a critical condition (see e.g. *Shizuoka Shinbun* 1992). At the same time, the Shrestha incident had an unexpected and long-lasting impact on voluntary activism among concerned citizens of Hamamatsu and its neighbouring cities.

Hamamatsu is a city of half a million in western Shizuoka Prefecture, 257 kilometres southwest of Tokyo which, together with its neighbours, hosts the headquarters for several major automobile, motor cycle and musical instrument companies such as Suzuki, Honda, Yamaha and Kawai Piano. Since the late 1980s, acute labour shortages concentrated among small sub-contractors of these large companies drew large numbers of *Nikkeijin* workers and their families, mostly from Brazil (Yamanaka 2000a; Ikegami 2001a; Roth 2002). Hamamatsu alone, for example, received 3,448 Brazilians in 1990, tripling to 11,182 ten years later. The industrial area also became home to many unauthorised Asian workers (Yamanaka 2000b).

This unprecedented influx of immigrant workers caused dedicated Japanese citizens of the area to organise a variety of community services for foreign workers and their families (Ikegami 2001a). The citizens' activities were intended to meet the needs of foreigners whose lack of citizenship and cultural familiarity denied them access to information on labour laws, inexpensive health care and housing, legal rights and political representation. As early as 1990, a citizens' voluntary group, the *Herusu no Kai* (Hamamatsu Overseas Labourers Solidarity), had begun to provide consultation and mediation services for foreign workers confronting labour disputes, job injuries, unpaid wages and problems of social welfare (Ikegami 2001b: 260–1). Other citizens who were dedicated to education formed networks and groups to teach immigrant children the Japanese language in community centres (Takeuchi 2001).

In 1992 when Shrestha was hospitalised, the regional media prominently reported his case. As a result, his story reached many local citizens, who then raised questions about health care for foreign workers, especially those who were unauthorised. It also sent a strong message to medical professionals and municipal administrators about the financial and social risks of the failure to establish policies regarding uninsured patients. Yet neither party took action or came forward with solutions. Hamamatsu citizens' responses to the mounting problems were spontaneous and determined, and in sharp contrast to the continuing refusal of the local government to grant foreign workers access to inexpensive health care. By the mid-1990s two voluntary associations – *Grupo Justiça e Paz* and the Medical Association for Foreigners – emerged in order to meet the health needs of foreign workers and their dependants.

Underlying the emergence of these community organisations in Hamamatsu is a growing emphasis on self-governance at the grass roots throughout Japan. Arising from the ashes of the 1995 Kobe Earthquake, this new civil society movement stresses voluntarism, public interest, non-profit-making and non-government organisation (Tajiri 2001: 19). In contrast to traditional community activism serving the interests of a specific neighbourhood, the new community activism addresses broad societal concerns including education, health, ageing, disability, environment, immigration, human rights and so on. Under increasing budgetary constraints, coupled with the rapidly ageing population, local governments are inclined to delegate policy projects to non-government organisations (Sakuma 2001: 147–8). In an age of decentralisation of state power, the partnership between local governments and non-government organisations has been consistent with the interests of the national government.

Grupo Justiça e Paz

Grupo Justiça e Paz evolved from the congregation of a Catholic church in Hamamatsu, many members of which were Brazilian and Peruvian nationals of Japanese descent. Before coming to Japan, the church's priest, Father Edvaldo Yano, had long worked for the relief and emancipation of the poor in Brazil. Upon arrival in Hamamatsu, with help of *Nikkei* and Japanese members, he provided a variety of services for the city's *Nikkei* populations, including advice, consultation, documentation, and negotiation with bureaucrats and employers. In April 1995, the Catholic group formed *Grupo Esperança* to provide a weekly meal service for the city's homeless, mostly Japanese, who lived in parks and public spaces near Hamamatsu Central Station. In 1993 when Jeevan Shrestha fell ill, Masako Yoshino, a member of the church and *Herusu no Kai*, coordinated communication between the citizen's group and the Nepalese migrant community. As the numbers of the city's uninsured foreigners increased, Father Yano and his group received increasing numbers of calls seeking assistance with health and medical problems (Ameishi *et al.* 1998). In response, in March 1997, Yano, Yoshino and other church members formed *Grupo Justiça e Paz* (Group of Justice and Peace, hereafter *Grupo*). They began a public campaign urging the Hamamatsu municipal government and the City Assembly to expand membership of the national health insurance to include the city's foreign residents.

In their petition of 12 March 1997 addressed to the Mayor, *Grupo* documented the serious problems faced by uninsured foreign populations (Ikegami 2001b: 234–5). The petition cited examples of medical emergency relief funds that had been established for foreigners by other local governments and demanded five items: (1) that the Hamamatsu city government conduct a study on enrolment of foreign residents in the National Health Insurance Programme and accept their applications; (2) that the Social

Security Agency ease procedures for foreigners to pay social security premiums in order to promote their participation in the Social Security Insurance Programme; (3) that the city government create a new health insurance plan designed specifically for foreign worker populations; (4) that the Shizuoka prefectural government launch a medical emergency relief fund for uninsured foreigners; and (5) that the city government establish a new department responsible for providing foreigners with public services. A month later, *Grupo* submitted a similar petition to the Shizuoka prefectural governor (Ikegami 2001b: 235; *Shizuoka Shimbun* 1997).

In May, the Hamamatsu government and the City Assembly's Social Welfare and Health Committee replied, stating that the city's policy was to follow the national government's guidance, which was not to admit foreign workers into the National Health Insurance Programme (Ikegami 2001b: 237–8). On the remaining four items, policy-makers made it clear that they had no intention of implementing any of *Grupo*'s proposals. Instead, they replied that they would forward the petition to the relevant agencies of the Prefecture and the national government. The hostile attitude of the City Assembly Committee was reflected in an incident which occurred during its discussion of *Grupo*'s proposals. In frustration, provoked by continued questioning on the part of *Grupo* members, one Assembly member made anti-foreigner comments.⁷ This incident was widely publicised, igniting angry protests from the Brazilian community and Japanese activists (Ikegami 2001b: 238–242; Roth 2002: 73).

In June, the Shizuoka prefectural government and prefectural assembly committees reached conclusions similar to those of its Hamamatsu counterparts (Ikegami 2001b: 235–6). They replied to *Grupo* that it would be unnecessary to institute new policies to promote health access for foreign nationals, or to issue new administrative guidelines to local municipal administrations because, according to prefectural policy-makers, local administrators were already following national ministerial guidance.

Dissatisfied with the indifferent replies by the local governments, *Grupo* continued its campaigning, collecting signatures from both foreigners and citizens in promotion of foreigners' access to inexpensive health care (Ikegami 2001b: 242). In June and July, with 5,500 signatures, *Grupo* resubmitted its petition to the Hamamatsu Mayor, who gave answers similar to those given by the City Assembly's Social Welfare and Health Committee in May (Ikegami 2001b: 243–6). Shortly after this *Grupo* ended its campaign in defeat. Over the next two years, the main members of *Grupo* formed a new group, *Justiça e Fraternidade*, and continued their activities, primarily collecting data on uninsured foreign residents in forty cities throughout Japan with a high concentration of foreigners. In late September 1999, Yano, Yoshino and two others visited the Ministry of Health and Welfare in Tokyo, requesting eleven items regarding participation of foreigners in public health insurance plans and relief measures for uninsured patients. In response, the Ministry's officials repeated its policy of not

admitting foreign workers into the National Health Insurance Programme (*Shizuoka Shimbun* 1999).

Grupo's short-lived but intense campaign on behalf of foreigners' rights thus ended with little progress in changing public policies at either the local or national levels. However, *Grupo* set a precedent for civil action in Hamamatsu where few citizens had been aware of the lack of inexpensive health care for foreigners. Its actions demonstrated that non-citizens do demand rights and equality as residents, and many citizens support their cause. *Grupo's* campaign sent a clear message to the nation, from a city with a high concentration of foreign workers, that legalised inequality and discrimination based on nationality would not be tolerated in silence.

Medical aid for foreigners in Hamamatsu (MAF)

Ever since Jeevan Shrestha had arrived at his clinic in 1992, Dr Taniguchi, the heart surgeon who had operated on him, had been increasingly concerned about foreigners' health care issues (Sakai and Ikegami 2001: 260). As a medical professional and supporter of *Herusu no Kai*, he had already been made aware of the problems met by uninsured foreigners, especially those who were unauthorised. The moral and financial dilemma that the case brought to Dr Taniguchi's attention when he decided to operate on Shrestha, led him to seek an alternative way to meet the medical needs of foreigners. In 1996, when the Rotary Club Central celebrated its tenth anniversary, Taniguchi, a member, suggested that the Club sponsor an event in which free medical checkups would be provided to uninsured foreigners by volunteer citizens, interpreters and professional groups of doctors, nurses, nutritionists and technicians. The Rotary Club adopted his proposal and decided that it would sponsor the event in cooperation with *Herusu no Kai* (Ikegami 2001b: 260–2).

After two months of intense preparation, this unprecedented charity programme took place on a Sunday in October 1996 in a large public hall near the Hamamatsu Central Bus and Railway Station. Despite the absence of medical facilities at the location, and no experience of such services, 209 volunteers of diverse capacities (twenty-three doctors and dentists, eighteen nurses, sixteen technicians, fifty-four interpreters and ninety-eight others) and nationalities (Japanese, Brazilian, Peruvian, Filipino and others) successfully carried out the medical screening of 259 foreigners, adults and children, authorised and unauthorised, from ten countries (Brazil, Peru, The Philippines, Nepal and others) (Hamamatsu Rotary Club Central 1997). The examinations available were in the areas of internal medicine, paediatrics, mental health and dentistry. Six tests were given to all examinees: blood test, blood type, blood pressure, urine, electrocardiogram and chest X-ray. This was the beginning of annual free checkup programmes which continue to take place.

The success of the first such event greatly encouraged its leaders and vol-

unteers, and attracted considerable media and public attention as well. In June 1997, the same people formed Medical Aid for Foreigners in Hamamatsu (MAF), to continue their service to Hamamatsu's increasing numbers of uninsured foreign residents, with the former leader of *Herusu no Kai* as its Chairperson (Ikegami 2001b: 263). Its main goals included the provision of annual checkups, the elimination of administrative barriers to foreigners' access to inexpensive health care, and the promotion of employers' participation in the Social Security Insurance Programme in order to increase enrolment among their foreign employees. MAF's initial success won the trust and interest of the city's major general hospitals. In the same year, the second free checkup programme was held, this time in the Hamamatsu Red Cross Hospital where all necessary facilities were available. Two years later the venue changed to the larger Enshu General Hospital, where the programme has been held ever since.

The October 2002 checkup programme served 587 foreigners of diverse nationalities (MAF Hamamatsu 2003). A total of 327 Japanese and non-Japanese volunteered their services: fifty-two doctors, forty-six nurses, forty-four technicians, eighty interpreters and 105 others (MAF Hamamatsu 2003). In 2003, gynaecology, otolaryngology and plastic surgery were added to the four medical specialties that had previously been provided. The test items increased from six to eight by adding checks for breast and uterine cancers. The number of interpreters also increased to facilitate communication with speakers of Portuguese, Spanish, English, Tagalog, Indonesian and Bengali. Over the years, the list of financial and technical support organisations and individuals has increased from eight to forty-five, and includes the city's major general hospitals, associations of medical workers and specialists, rotary and lions clubs, an international exchange organisation, a printing company, a voluntary association of Brazilian medical workers, and a variety of individual donors.

Despite this support and the success MAF has experienced in serving mostly uninsured foreigners, it faces significant ongoing problems, not least of which is financial. Donations comprise its major source of income (*Shizuoka Shimbun* 2001). As a voluntary association, it does not receive public subsidies. Consequently, its annual income has fallen far short of its annual expenses. MAF's 1998 balance sheet, for example, reports an income of 1,140,000 yen (US\$9,500) derived entirely from donations, and expenses totalling 973,400 yen (US\$8,112) (MAF Hamamatsu 1999).⁸ The expenses do not include the actual cost of checkups: 8,000 yen (US\$67) per examinee (Taniguchi 2000). Most medical expenses are covered by the free services of volunteers and supporting establishments. That is, medical doctors, technicians, nurses and nutritionists provide their expertise and labour; medical supply companies contribute supplies; medical laboratories perform tests; and hospitals bear overhead expenses – all without charge (*Shizuoka Shimbun* 2001). As the programme attracts more applicants each year, MAF's leaders wonder and worry about how long this kind of generous charity can continue.

Another major problem faced by MAF is medical. After each checkup, MAF reports the results to each examinee. Because the programme is only intended to check a person's physical condition, those patients whose results indicate health problems are expected to visit a physician or hospital at their own expense to receive diagnosis and treatment. Over the years, however, MAF has learned that the majority do not do so (Hamamatsu NPO Network Centre 2001: 6). This is primarily because it is hard for temporary foreign workers to take a day off from work (hospitals are closed on weekends) or, in the absence of insurance, they are unable to pay for treatment. This is a problem beyond MAF's capacity to address.

Despite these many problems and constraints, MAF leaders and volunteers remain optimistic and energetic, organising regular meetings throughout the year to administer and plan activities. MAF is determined to continue its service until such time as all foreigners in the city (and the country) are covered by public health insurance. In recent years, MAF has received requests for assistance from civil groups in other cities which have become interested in launching similar programmes. Thus MAF's message is spreading, and its precedent is being followed beyond the vicinity of Hamamatsu.

In an interview, when asked why MAF provides the checkup service free of charge, Dr Taniguchi answered:

In Japan, there are many kinds of free medical services provided to Japanese: for infants, school children, pregnant women, company employees, adults and the elderly. However, there is nothing like that for foreigners. This is why we do this free. If our MAF services were to be provided on a fee basis, our responsibility to the examinees would be greater than we can bear as volunteer providers. There is much to do. We need to raise funds for the programme while preparing it throughout the year. As a way to do [this], we try to appeal to citizens' social conscience because to do so is to fulfil the foreigners' human rights. I believe this works better in the long run than making it political by blaming the administration for its failure to provide medical services for them.

(Taniguchi, Interview, 26 January 2000)

Forces from below and above

Grupo and MAF have adopted very different methods and strategies to approach the same goal. The former, composed of ordinary citizen and immigrant activists, has briefly, but directly, challenged the local and national governments for the expansion of foreigners' rights. In contrast, MAF has for years been successful in mobilising large numbers of medical professionals, mainstream institutions and prominent citizens to participate in its once-a-year voluntary activities. It has also been successful in attracting

increasing numbers of uninsured foreigners to take advantage of its free annual checkups.⁹ In January 2001, a local business and management research institute awarded MAF the International Exchange Service Award for its distinguished activities for the welfare of the local population (*Herusu no Kai* 2002).

These two civil groups' actions for foreigners' rights demonstrate the kind of civilian mobilisation that has recently attracted academic interest as a form of 'governance from below'. This concept refers to the actions of ordinary citizens when they participate in 'the exercise of power in a variety of institutional contexts, the object of which is to direct, control, and regulate activities in the interests of people as citizen voters, and workers' (Robinson 1996: 347; see also Falk 1993). Where this kind of democratic governance within a nation-state is enacted across ethnic boundaries as a result of migration, which is, in turn, a result of the globalised economy, scholars find that it comprises a form of political 'transnationalism from below'. Therein, coalitions of men and women of various nationalities, ethnicities and classes exercise power for common goals transcending national boundaries (Guarnizo and Smith 1998; Portes 1999; Lister 1997).

Despite such an impressive solidarity of forces from below as is exhibited in Hamamatsu by *Grupo* and MAF, it remains to be seen what impact that solidarity will actually have on policy-makers in the city and national governments. As of summer 2003, no major change had been announced to improve foreigners' access to inexpensive health care. The traumas of Japan's colonial past account in large part for the post-war government's indifference to citizenship rights for foreigners in Japan. In contrast, Japan's recent history of civil protest indicates that great strides have been taken by immigrant organisations and their Japanese sympathisers in expanding equality and justice for the oldcomer populations. Embracing international human rights laws as their moral guide, civil activists of diverse nationalities in Japan have tenaciously challenged legal, administrative and institutional barriers embedded in the bureaucracy, labour markets and social customs.

The legacy of activists' struggles continues in the many cities where thousands of newcomers, including their families, have settled. In Hamamatsu, the struggles to eliminate barriers to equality and justice for foreigners and other minorities have taken a variety of forms. One such form is vividly illustrated by a specific instance of legal action that had the effect of integrating an international law into the legal defence of a local Hamamatsu woman victimised by 'racial' discrimination. In 1998, the city attracted unwanted national mass media attention which focused on a discrimination lawsuit brought by Brazilian journalist Ana Bortz, who sued a local jewellery storeowner, T. Suzuki, who, she charged, had attempted to expel her from his store on the basis of her nationality (Maeda 1998). In the absence of any applicable law, Bortz cited the authority of the International Convention on Eliminating All Forms of Racial Discrimination, which had been ratified by Japan since 1995. A year later, the District Court judge who

presided over the case astounded the city and the nation when he ruled that the plaintiff had suffered discrimination because of her race and nationality, and ordered the defendant to pay her full compensation. The judge had decided, in agreement with Bortz's argument, that in view of the absence of any domestic anti-discrimination law, and in view of Japan's ratification of the International Convention, the Convention's provisions must serve as the standard by which racial discrimination was to be determined, prohibited and adjudicated (French 1999).

A study of the social impact of this unprecedented Court ruling on Hamamatsu citizens' perceptions of foreigners suggests that many thought that defendant Suzuki did the 'right' thing in order to protect his business from a foreigner, whom he regarded as a potential criminal on the basis of her nationality (Yamanaka 2003a). They also expressed vague fears generated by the fact that a foreigner had dared to challenge Japanese authority and hegemony in a Japanese city. The long-term impact of the Court ruling on public perceptions and attitudes towards ethnic minorities is yet to be seen in Hamamatsu. It is evident, however, that the issues of racial equality and human rights which were emphasised in the Court ruling remain a remote concept in the minds of the majority of citizens who have never doubted their entitlement to ethnic (national) dominance in Japan, thus accepting discrimination against foreigners as reasonable (Yamanaka 2004b).

Conclusion

This case study of Hamamatsu indicates that concerned citizen civil activists' responses to the emergence of newcomer communities have been spontaneous, determined and positive. In sharp contrast, the responses of local and national governments have been ambiguous at best, while the general public has ranged from indifferent to hostile. This suggests that Japan's path to building a multi-ethnic community is clearly destined to be rocky, with much social and political tension embedded in the process of challenging the status quo in which the dominant group and its government have long maintained power, privilege and hegemony. In this process, international law and grass-roots activism have proven to be two important new forces in expanding the ideological landscape and legal framework of citizenship in Japan. More research is necessary before it will be possible to predict how, and to what extent, these two forces – international law applied from 'above' and grass-roots activism emerging from 'below' – can bring significant change to the conservative 'middle' – the government and the public.

Notes

- 1 All personal names in this chapter are pseudonyms. Information about the Jeevan Shrestha case was obtained from newspaper articles (*Chunichi Shimbun* 1992a, 1992b, 1993; *Yomiuri Shimbun* 1992a, 1992b), interviews with knowledgeable civil activists in the city, and an interview with Shrestha in Kathmandu, Nepal on 24 December 1996.
- 2 In 1993, the exchange rate was 111 yen per US dollar.
- 3 Soysal (1994) analyses the incorporation of guest workers and their dependants (who have become permanent residents) into the states' political structures in six Western European countries since the 1970s (Sweden, the Netherlands, Germany, France, Switzerland and Britain). Guest worker populations from non-EU member countries, such as Turkey and those in North Africa, continue to face many forms of exclusion from the political, social and economic institutions in receiving countries (Piper 1998).
- 4 It should be stressed that this is limited mostly to citizens of EU member countries. In fact, in 1990 the Constitutional Court of Germany ruled out the extension of local voting rights to non-EU nationals who had not become naturalised citizens. A Turkish citizen, for example, would be prohibited from voting, whereas a French citizen would have this right (Yamanaka and Piper 2003: 9).
- 5 Since April 1996, a partial refund of the first three years of instalments that foreigners invested in the National Social Security Plan has been made available to them when they leave Japan (Roth 2002: 73–4). This, however, benefits few Brazilians as they rarely enrol in the Plan. If they were to do so, they would receive no return beyond their first three years because many work for more than three years, while continuing to be required to pay into the Plan.
- 6 For information about Nepalese labour migration to Japan and their community activities, see Yamanaka 2000b and 2003b.
- 7 The Assembly member stated: 'If they [foreigners] say they do not want to work here unless they can participate in the health insurance program, let them go home as they wish' (Ikegami 2001b: 239).
- 8 The exchange rate was 120 yen per dollar in 1998.
- 9 Since 2002, MAF has launched a programme in which pupils in the city's Brazilian schools are able to receive a free checkup. In July 2003, 672 pupils from the three Brazilian schools and one Peruvian school received a free checkup (*Herusu no Kai* 2003: 1–2).

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